

**REMARKS/ARGUMENTS**

The Examiner is thanked for the Official Action dated February 6, 2006. This amendment and request for reconsideration is intended to be fully responsive thereto.

Claims 1, 13 and 14 have been amended to correct minor inconsistencies. No new matter has been added.

Claims 1-3, 5, 6, 11 and 12 were rejected under 35 U.S.C. 103(a) as being unpatentable over Liao (USPN 5,998,718) in view of Carrier (USPN 4,200,025). The applicant respectfully disagrees.

The examiner, however, concedes that Liao fails to disclose the use of at least one add-on weight.

The Examiner then cites the drum pedal assembly of Carrier alleging that Carrier discloses the use of a drum beater device adapted to be selectively affixed to a main weight member (135), wherein the at least one add-on weight (no specific numeral is referred to by the Examiner) is formed to partially circumscribe the beater shaft such that the at least one add-on weight may be slidably added to the main weight-member (135). The Examiner also cites column 6, lines 18-23 of Carrier disclosing that the weight 135 is removably received in the bore 133 of the beater head 150, so that various different weights can be used to selectively adjust the "feel" of the device 110.

The Applicant, after carefully reviewing the disclosure of Currier, claims that nowhere in the specification Currier discloses the add-on weight. Contrary to the examiner's allegations, Currier discloses only one weight member 135 removably received in the bore 133 of the beater head 150. No add-on weight adapted to be selectively affixed to the weight member 135 is taught by Currier. Thus, it appears that according to the Examiner's line of reasoning the main weight member and the add-on weight is the same weight 135. In the event that the Examiner maintains this rejection of claim 1 in a future written communication, the Applicant kindly requests the Examiner to point to a specific place (column, line) in the '718 patent where Currier discloses the add-on weight affixed to the main weight 135 and the reference numeral marking the add-on weight.

Currier teaches that various different weights of the weight member 135 can be used to selectively adjust the "feel" of the foot-operated device 110. In other words, the "feel" of the foot-operated device 110 is adjusted by changing the weight of the weight member 135, not by the add-on weight selectively affixed to the main weight member, as recited in claim 1 of the present application. Moreover, the weight member 135 of Currier is not adapted to be selectively mounted to the beater rod 148. The only possible position of the weight member 135 is within the beater head 150. Furthermore, the weight member 135 of Currier cannot be mounted to the beater shaft without removing the beater shaft from the rotating shaft (axletree 152).

Thus, contrary to the Examiner's allegations, Currier fails to disclose the recited at least one add-on weight in addition to the main weight and the main weight selectively mounted to the beater shaft. In other words, the weight member 135 is the only adjustable weight in the foot-operated control device 110. Therefore, even if the combination of and modification of Liao and

Appl. No. 10/826,376  
In re Takegawa, A.  
Reply to Office Action of Feb. 6, 2006

Currier suggested by the Examiner could be made, the resulting assembly for adjusting torque of a drum beater device still would lack the at least one add-on weight adapted to be selectively affixed to the main weight member.

Moreover, the Examiner has failed to provide the necessary motivation to combine the teachings of Liao with that of Currier. The Examiner's allegation that it would have been obvious to one of ordinary skill in the art to modify the weight system as disclosed by Liao with the additional weight as disclosed by Currier in order to selectively adjust the "feel" of the device, is unsupported by the applied prior art and inconsistent with the disclosures of Liao and Currier, as both references cited disclose single-weight assemblies for adjusting the amplitude of oscillation of the beater (or the "feel" of the drum beater). Clearly, the prior art references cited by the Examiner lack any suggestion or motivation to modify or combine teachings of Liao and Currier.

Therefore, claims 1-3, 5, 6, 11 and 12 define the present invention over the prior art and are in condition for allowance.

The Examiner, however, noted that claims 4 and 7-10 would be allowed if rewritten in independent form including all the limitations of the base claim and any intervening claims.

As it was argued above, claim 1 defines the invention over the prior art and is believed to be in condition for allowance. Therefore, claims 4 and 7-10 further define the present invention over the prior art and are in condition for allowance.


Claims 13 and 14 presented in the previous AMENDMENT AND REQUEST FOR RECONSIDERATION, dated November 15, 2005, represent claims 8 and 9, respectively,

Appl. No. 10/826,376  
In re Takegawa, A.  
Reply to Office Action of Feb. 6, 2006

indicated by the Examiner as allowable, rewritten in independent form including all the limitations of the base claim and any intervening claims.

Therefore, it is respectfully submitted that claims 1-14 define the invention over the prior art of record and are in condition for allowance, and notice to that effect is earnestly solicited. Should the Examiner believe further discussion regarding the above claim language would expedite prosecution they are invited to contact the undersigned at the number listed below.

Respectfully submitted:  
Berenato, White & Stavish

By:   
George Ayvazov  
Reg. N° 37,483

6550 Rock Spring Drive, Suite 240  
Bethesda, Maryland 20817  
Tel. (301) 896-0600  
Fax (301) 896-0607